

APPENDIX XLVIII.

[See Rules 728, 750 and the Note below Rule 769.]

PROVISIONS FOR THE DETERMINATION OF DOMICILE.

1. A person can have only one domicile.
2. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled, or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.
3. The domicile of origin of an illegitimate child is in the country in which at the time of his birth his mother was domiciled.
4. The domicile of origin prevails until a new domicile has been acquired, and a new domicile continues until the former domicile has been resumed or another has been acquired.
5. (1) A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.
(2) Any person may, if the law of any country so provides, and subject to any such provisions, acquire a domicile in that country by making, in accordance with the said provisions, a declaration of his desire to acquire such domicile.
Explanation 1.—A person is not to be considered as having taken up his fixed habitation in a country merely by reason of his residing there in His Majesty's civil or military service or in the exercise of any profession or calling.
Explanation 2.—A person does not acquire a new domicile in any country merely by reason of residing as part of the family or as a servant of any ambassador, consul, or other representative of the Government of another country.
6. The domicile of a minor follows the domicile of the parent from whom he derives his domicile or origin :

Provided that the domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the service of His Majesty or has set up with the consent of the parent in any distinct business.
7. After marriage a woman acquires the domicile of her husband if she had not the same domicile before and her domicile during the marriage follows the domicile of her husband :

Provided that if the husband and wife are separated by the order of a competent court or if the husband is undergoing a sentence of transportation, the wife becomes capable of acquiring an independent domicile.
8. Save as otherwise provided above a person cannot during minority acquire a new domicile.
9. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.
10. Notwithstanding anything herein contained, a person who—
(a) was born, and has been educated exclusively, in Asia and had not at the date of his appointment resided out of Asia for a total period exceeding six months, or

(b) had before that date claimed and been deemed to be of Indian domicile for the purpose of his appointment to any office under the Government or of the conferment upon him by the Government of any scholarship, emoluments or other privilege,

shall be deemed to have had his domicile in Asia on that date unless in the case of a person to whom clause (a) applies and clause (b) does not apply it is proved to the satisfaction of the appointing authority that he did not have his domicile in Asia on that date.

11. If any question arises as to the domicile of any officer at the time of his appointment, the decision thereon of Government shall be final.

Note.—The following form of questionnaire should be used when occasion arises for determining the domicile of a person :—

Domicile Questionnaire.

Questions.

Answers.

1. (a) When and where was your paternal grandfather born ?

(b) What was, or is, his profession or occupation ?

(c) Where was he when your father attained his majority ?

(d) Is he alive ? If not, when and where did he die ?

2. Was he ever in India ?

If he was—

(a) Where was he educated ?

(b) Where was he married ?

(c) In what capacity did he come to India or work there ?

(d) How often, if at all, did he leave, or has he left India, and for how long on each occasion ?

(e) Was his wife (your grandmother) ever in Europe ? If so, how many times and for how long on each occasion ?

(f) If your grandfather is dead had he retired before his death ? If so, how long did he remain in India after retiring ?

(g) How many children had he ? Did any of them (except your father) settle in India ? If so, give particulars.

Domicile Questionnaire.

Questions.

Answers.

- (h) If you cannot answer question 1 (a) and (d) state approximately your grand-father's age when he died?
- (i) Had he ever any immovable property in India? If so, where and of what value?
3. (a) When and where was your father born?
- (b) What was or is his profession or occupation?
- (c) Where was he when you attained your majority?
- (d) Is he alive? If not, when and where did he die?
4. Was your father ever in India? If he was—
- (a) Where was he educated?
- (b) When, where and to whom was he married?
- (c) In what capacity did he come to India or work there?
- (d) How often, if at all, did he leave, or has he left India and for how long on each occasion. (State the approximate dates).
- (e) Was your mother ever in Europe? If so, how many times and for how long on each occasion? (State the approximate dates).
- (f) If your father is alive, where is he and what is he doing? Has he retired? If so, how long did he remain in India after retiring?
- (g) If your father is dead, had he retired before his death? If so, how long did he remain in India after retiring?

Domicile Questionnaire.

Questions.

Answers.

- (h) If he is dead, what was his financial position (i) when he retired and (ii) when he died ?
- (i) Has or had he or your mother any property in Europe ? If so, where and of what description and value ?
- (j) Has or had he or your mother ever any immovable property in India ? If so, where and of what value ?
- (k) Did, or does he or your mother correspond with any relatives or friends in Europe ?
- (a) When and where were you born ?
- (b) Where were you educated ?
- (c) If you are married, when, where and to whom were you married ?
- (d) Have you ever been to Europe ? If so, how many times and for how long on each occasion ? If not, what prevented you from leaving India ? (State the approximate dates).
- (e) Has your wife ever been to Europe ? If so, how often and for how long on each occasion ? (State the approximate dates).
- (f) How many children have you ? Where were they, or are they, being educated ? and what are they doing ?
- (g) When and in what capacity did you enter service under Government ?
- (h) If you did not join immediately on finishing your education, what were you doing before you joined ?

Domicile Questionnaire.

Questions.

Answers.

- (i) Have you or your wife any property in Europe? If so, where and of what description and value?
- (j) Have you or your wife or have either of you ever had any immoveable property in India? If so, where and of what value?
- (k) Do you, or does your wife, correspond with any relatives or friends in Europe? If so, give particulars?
6. Have or had you any brothers or sisters? If so, how many? Where were they or are they being educated? Where are they now and what are they doing? If any of them are dead, where did they die and what were their occupations?
7. Have you ever claimed and been deemed to be of Indian Domicile for the purpose of your appointment to any office under Government, or for the conferment upon you by Government of any scholarship, emoluments or other privileges?